

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

PAMELA G. CAPPETTA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:08-cv-00288
)	
GC SERVICES LIMITED PARTNERSHIP,)	
)	
Defendant.)	

DEFFENDANT’S AMENDED AFFIRMATIVE DEFENSES

COMES NOW Defendant GC Services Limited Partnership (“Defendant”), by counsel, and states the following as its Amended Affirmative Defenses to the First Amended Complaint (“Complaint”) filed herein by Plaintiff Pamela G. Cappetta (“Plaintiff”):

1. At all pertinent times, Defendant complied with the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.*
2. Any violation of the Fair Debt Collection Practices Act by Defendant, which is specifically denied, was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.
3. At all pertinent times, Defendant acted in good faith reliance on the information provided by the original creditor of the account and/or other entities not under the control of Defendant.
4. At all pertinent times, Defendant acted in compliance with the Federal Trade Commission regulations, Federal Trade Commission staff commentary and letter commentaries, and/or Federal Trade Commission advisory opinions.

5. Defendant did not make any false or misleading representation to Plaintiff or to anyone else.

6. Defendant did not threaten, abuse, or harass Plaintiff.

7. Except as provided in 15 U.S.C. § 1692b, Defendant did not communicate with any third party in the connection of the collection of Plaintiff's debt.

8. Plaintiff did not justifiably rely upon any alleged false or misleading representation.

9. All amounts attempted to be collected by Defendant from Plaintiff are reasonable and lawful pursuant to applicable federal law.

10. All amounts attempted to be collected by Defendant from Plaintiff are reasonable and lawful pursuant to the common law and/or statutory law of the Commonwealth of Virginia and to the common law and/or statutory law of the State of Texas.

11. All amounts attempted to be collected by Defendant from Plaintiff were pursuant to Plaintiff's agreement(s) to pay said amounts.

12. Plaintiff failed to mitigate any damages which she may have suffered, if any.

13. Plaintiff has suffered no compensable damages.

14. Defendant denies Plaintiff was damaged to the extent alleged, if at all, and demands strict proof thereof.

15. Plaintiff has failed to state a claim upon which relief can be granted.

16. Plaintiff lacks standing to assert all or part of the claims set forth in the Complaint.

17. Punitive damages are not available to Plaintiffs under the applicable statute(s).

18. Plaintiff's claims are barred by the doctrines of laches, waiver, and/or estoppel.

19. At all times Defendant acted in good faith.

20. All actions taken by Defendant with respect to the amounts owed by Plaintiff were in compliance with all laws, were qualifiedly privileged, and were absolutely privileged.

21. Plaintiff's claims are barred, in whole or in part, by the doctrine of pre-emption.

22. Plaintiff's claims are barred, in whole or in part, by the voluntary pay doctrine.

WHEREFORE, Defendant GC Services Limited Partnership, by counsel, requests that this Court dismiss Plaintiff's First Amended Complaint and Order such other relief as may be just.

Respectfully submitted,

G.C. SERVICES LIMITED PARTNERSHIP

By: /s/
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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of May, 2009, I electronically filed the foregoing Defendant's Amended Affirmative Defenses with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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